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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,887	12/13/2000	Hideaki Watanabe	FUJS 18.066	9317
26304	7590	06/04/2004	EXAMINER /	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			SHEW, JOHN	
			ART UNIT	PAPER NUMBER
			2664	6

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/735,887

Applicant(s)

WATANABE ET AL.

Examiner

John L Shew

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Page 18 line 7 cites "I/F 4", should be "TCP/IP 4".

Page 18 line 26 cites "MOS", should be "MO".

Page 24 line 7 cites "discriminating section 32", should be "discriminating section 33".

Page 24 line 13 cites "discriminating section 32", should be "discriminating section 33".

Page 24 line 17 cites "32", should be "33".

Page 26 line 23 cites "he AV", should be "the AV".

Page 35 line 18 cites "upper lever", should be "upper level".

Page 40 line 3 cites "sending terminal 2", should be "sending terminal 5".

Page 40 line 4 cites "terminal 3", should be "terminal 6".

Page 40 line 5 cites "sending terminal 2", should be "sending terminal 5".

Page 40 line 6 cites "receiving terminal 3", should be "receiving terminal 6".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukushima et al.

Claims 1, 2, 6, 11 and 12, Fukushima teaches a data communication system having data sending and receiving terminals (Fig. 27b) referenced by server S and terminal T, comprising at the data receiving terminal (Fig. 2) referenced by the receiving terminal 201, a received-data quality discriminating section for discriminating whether or not data to be received satisfies a predetermined accumulation quality (Fig. 2) referenced by the error packet detection unit 22 and packet priority decision unit 25 to determine sufficient quality based on errors and priority levels for decoding, an alternative-data sending requesting section for if the received data of a particular time section does not satisfy accumulation quality as the result of discrimination requesting the data sending terminal to send alternative-data for the particular time section (Fig. 2, column 15 lines 23-28) referenced by retransmission instruction output unit 26 in which retransmission-data is equated to alternative-data for retransmission of select packet sequences which

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is equated to a particular time section, a received-data accumulating section for accumulating the received data as judged satisfying the accumulation quality (Fig. 2) referenced by packet decoding unit 23 to accumulate packets and reception history management unit 24 to determine retransmission history accumulation requests, comprising at the data sending terminal (Fig. 1a) referenced by relay server 101, an alternative-data sending request receiving section (Fig. 1a) referenced by retransmission instruction receiving unit 14, receiving from alternative-data sending requesting section of data receiving terminal (Fig. 2) referenced by retransmission instruction output unit 26 of receiving terminal 201, the request for sending alternative data satisfying the accumulation quality (column 15 lines 63-67, column 16 lines 1-7) referenced by request for retransmitting a packet based on minimum priority, a sending-data accumulating section for accumulating data to be sent to the data receiving terminal as alternative data (Fig. 1a) referenced by retransmission buffer 17 accumulating data based on retransmission instruction requests, an alternative-data sending section for upon receipt of the sending request by alternative-data sending request receiving section (Fig. 1a) referenced by transmission queue management unit 12 of retransmission buffer data 17 based on requests from retransmission instruction receiving unit 14, obtaining alternative data satisfying the accumulation quality from accumulated contents (Fig. 1a, column 15 lines 19-28) referenced by retransmission decision unit 16 determination based on priorities.

Claims 3 and 7, Fukushima teaches alternative-data sending requesting section is a differential-data sending requesting section for requesting differential data satisfying the accumulating quality to form quality data as combined with the already sent data (column 17 lines 43-49) referenced by use of I frames and P frames for video data wherein it is well known in the art that P frames are motion compensated frames encoded in a manner which is dependent upon other prior frames such as an I frame or a preceding P frame. The P frame represents differential-data satisfying accumulating quality since it depends on prior frames. Fukushima teaches association of frame types to priority levels which is the basis of retransmission requests.

Claims 4 and 8, Fukushima teaches a data receiving terminal (Fig. 2) referenced by receiving terminal 201, wherein received-data quality discriminating section (Fig. 2) referenced by error packet detection unit 22 and packet priority decision unit 25, discriminates the accumulation quality of the received data based on the sending-data quality information (column 15 lines 8-11, line 67, column 16 lines 1-3) referenced by packet header containing priority information and error packet detection unit forming a request based on packet priority, a data sending-terminal (Fig. 1a) referenced by relay server 101, quality information sending section (Fig. 1a) referenced by packet priority decision unit 15, for sending to the data receiving terminal the sending-data quality information (Fig. 1a) referenced by transmission unit 13.

Claims 5 and 9, Fukushima teaches the data receiving terminal wherein the received-data quality discriminating section (Fig. 2) referenced by error packet detection unit 22 and packet priority decision unit 25, receives quality kind information about the kind of quality of data to be sent from the data sending terminal (column 46 lines 32-47) referenced by packet structure of P=1 being I frame data, P=2 being P frame data and P=3 being B frame data, a data sending terminal (Fig. 1a) referenced by relay server 101 sending the kinds of quality data.

Claim 10, Fukushima teaches a data sending terminal (Fig. 1a) referenced by relay server 101, an accumulation control section for deleting the sending data which is accumulated in the sending-data accumulation section (Fig. 1a) referenced by retransmission buffer management unit 18 controlling the retransmission buffer 17, from the sending data having lapsed a predetermined time (column 16 lines 44-60) referenced by discarding of retransmission buffer data of packets of the earliest reproduction time is performed at regular intervals.

### ***Citation of Prior Art***


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Patent 5903673, Wang teaches digital video encoding methods. Patent 6637031, Chou teaches multimedia presentation with different quality levels based on transmission bit rates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Shew whose telephone number is 703-305-8708. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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WELLINGTON CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600